

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1431

Introduced by Assembly Member Gomez

February 27, 2015

An act to ~~amend Section 65583 of the Government Code, add and repeal Article 60.4 (commencing with Section 20919.20) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code, relating to land use planning; local public contracting.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1431, as amended, Gomez. ~~Housing element. Local Agency Public Construction Act: job order contracting.~~

Existing law, the Local Agency Public Construction Act, authorizes job order contracting, as provided, by the Los Angeles Unified School District (LAUSD), until December 1, 2020.

This bill would authorize job order contracting in a similar manner for school districts other than LAUSD until January 1, 2022. The bill would restrict job order contracting pursuant to the bill to school districts that have entered into a project labor agreement or agreements, as defined, that will apply to all public works in excess of \$25,000 undertaken by the school district through at least December 31, 2021, regardless of what contracting procedure is used to award that work. The bill would require job order contractors to submit a questionnaire to the school district containing specified information verified under oath. By expanding the crime of perjury, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.

Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~The Planning and Zoning Law requires a city or county to adopt a comprehensive, long-term general plan for the physical development of the city or county and of any land outside its boundaries that bears relation to its planning. That law also requires the general plan to contain specified mandatory elements, including a housing element for the preservation, improvement, and development of housing. Existing law requires the housing element to include specified information.~~

~~This bill would make nonsubstantive changes to the provision regarding the information required to be included in the housing element.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 SECTION 1. Article 60.4 (commencing with Section 20919.20)
2 is added to Chapter 1 of Part 3 of Division 2 of the Public Contract
3 Code, to read:

4

5 Article 60.4. Job Order Contracting for School Districts

6

7 20919.20. The Legislature finds and declares all of the
8 following:

9 (a) It is the intent of the Legislature, in enacting this article, to
10 demonstrate an alternative and optional procedure for bidding of
11 public works projects that is applicable only to school districts
12 other than the Los Angeles Unified School District. The Legislature
13 has previously authorized the use of this alternative and optional
14 procedure in Article 60.3 (commencing with Section 20219) only
15 for the Los Angeles Unified School District, which is using the
16 procedure in conjunction with its project stabilization agreement.

17 (b) Districts should be able to utilize cost-effective options for
18 the delivery of public works projects, in accordance with the
19 national trend, which include authorizations in California, to allow
20 public entities to utilize job order contracts as a project delivery
21 method.

1 (c) *The benefits of a job order contract project delivery system*
2 *include accelerated completion of the projects, cost savings, and*
3 *reduction of construction contracting complexity for the unified*
4 *school district.*

5 (d) *The job order contracting approach should be used for the*
6 *purposes of reducing project cost and expediting project*
7 *completion.*

8 (e) *The Legislature is uncertain of the benefits and advantages*
9 *of job order contracting for California school districts and*
10 *therefore looks forward to the reports required by Section 20919.32*
11 *in order to fully and competently assess any further exemptions to*
12 *the school contracting process.*

13 (f) *The availability of job order contracting as a project delivery*
14 *method will not preclude the use of traditional methods of project*
15 *delivery if a traditional method results in higher cost savings.*

16 (g) *It is the intent of the Legislature that job order contracts be*
17 *competitively bid and awarded to the bidder providing the most*
18 *qualified responsive bid. It is further the intent of the Legislature*
19 *that school districts use the job order contract process pursuant*
20 *to this article only if the school district has entered into a project*
21 *labor agreement that meets the requirements of Section 2500 for*
22 *all its public works projects.*

23 20919.21. As used in this chapter:

24 (a) *“Adjustment factor” means the job order contractor’s*
25 *competitively bid adjustment to the school district’s prices as*
26 *published in the catalog of construction tasks.*

27 (b) *“Catalog of construction tasks” means a book containing*
28 *specific construction tasks and the unit prices to install or demolish*
29 *that construction. The listed tasks shall be based on generally*
30 *accepted industry standards and information, where available, for*
31 *various items of work to be performed by the job order contractor.*
32 *The prices shall include the cost of materials, labor, and equipment*
33 *for performing the items of work. The prices shall not include*
34 *overhead and profit. All unit prices shall be developed using local*
35 *prevailing wages.*

36 (c) *“Indefinite quantity” means one or more of the construction*
37 *tasks listed in the catalog of construction tasks.*

38 (d) *“Job order” means a firm, fixed priced, lump-sum order*
39 *issued by the school district to a job order contractor for a definite*
40 *project scope of work as compiled from the catalog of construction*

1 tasks to be performed pursuant to a job order contract. No single
2 job order may exceed one million dollars (\$1,000,000) in value.

3 (e) “Job order contract” means a contract, awarded to the most
4 qualified bidder as described in paragraph (1) of subdivision (b)
5 of Section 20919.24, between the school district and a licensed,
6 bonded, and general liability insured contractor in which the
7 contractor agrees to a fixed period, fixed unit price, and indefinite
8 quantity contract that provides for the use of job orders for public
9 works or maintenance projects.

10 (f) “Job order contract technical specifications” means a book,
11 published by the school district, detailing the technical
12 specifications with regard to quality of materials and workmanship
13 to be used by the job order contractor in accomplishing the tasks
14 listed in the catalog of construction tasks.

15 (g) “Job order contractor” means a licensed, bonded, and
16 general liability insured contractor awarded a job order contract.

17 (h) “Offer to perform work” means the job order contractor’s
18 proposal for a specific job order.

19 (i) “Plans and specifications” means the catalog of construction
20 tasks and the job order contract technical specifications. The scope
21 of work to be performed with a job order contract is potentially,
22 but not necessarily, all the tasks published in the catalog of
23 construction tasks.

24 (j) “Project” means the specific requirements and work to be
25 accomplished by the job order contractor in connection with an
26 individual job order.

27 (k) “Project labor agreement” means an agreement that meets
28 the requirements of Section 2500.

29 (l) “Project scope of work” means the document and related
30 drawings, specifications, and writings referenced therein which
31 together set forth the specific requirements and work to be
32 accomplished by the job order contractor in connection with an
33 individual job order.

34 (m) “Proposal” means the job order contractor prepared
35 document quoting those construction tasks listed in the catalog of
36 construction tasks that the job order contractor requires to
37 complete the project scope of work, together with the appropriate
38 quantities of each task. The pricing of each task shall be
39 accomplished by multiplying the construction task unit price by
40 the proposed quantity and the contractor’s competitively bid

1 *adjustment factor. The proposal shall also contain a schedule for*
2 *the completion of a specific project scope of work as requested by*
3 *the school district. The proposal may also contain approved*
4 *drawings, work schedule, permits, or other documentation as the*
5 *school district may require for a specific job order.*

6 (n) *“Public works” has the same meaning as in Chapter 1*
7 *(commencing with Section 1720) of Part 7 of Division 2 of the*
8 *Labor Code.*

9 (o) *“Public works project” has the same meaning as “public*
10 *project,” as defined in Section 22002.*

11 (p) *“Subcontractor” means any person, firm, or corporation,*
12 *other than the employees of the job order contractor, who is bonded*
13 *and general liability insured and who contracts to furnish labor,*
14 *or labor and materials, at the worksite or in connection with a job*
15 *order, whether directly or indirectly on behalf of the job order*
16 *contractor.*

17 (q) *“School district” means any school district other than the*
18 *Los Angeles Unified School District.*

19 20919.22. *Nothing in this article or in this code shall prohibit*
20 *the school district from utilizing job order contracting, as an*
21 *alternative to any contracting procedures that the school district*
22 *is otherwise authorized or required by law to use.*

23 20919.23. (a) *The school district may utilize job order*
24 *contracting pursuant to this article only if the school district has*
25 *entered into a project labor agreement or agreements that will*
26 *apply to all public works in excess of twenty-five thousand dollars*
27 *(\$25,000) undertaken by the school district through at least*
28 *December 31, 2021, regardless of what contracting procedure is*
29 *used to award that work.*

30 (b) *The school district shall prepare an execution plan for all*
31 *modernization projects that may be eligible for job order*
32 *contracting pursuant to this article. The school district shall select*
33 *from that plan a sufficient number of projects to be initiated as*
34 *job order contracts during each calendar year and shall determine*
35 *for each selected project that job order contracting will reduce*
36 *the total cost of that project. Job order contracting shall not be*
37 *used if the school district finds that it will increase the total cost*
38 *of the project.*

39 20919.24. *Bidding for job order contracts shall progress as*
40 *follows:*

1 (a) (1) The school district shall prepare a set of documents for
2 each job order contract. The documents shall include a catalog
3 of construction tasks and preestablished unit prices, job order
4 contract technical specifications, and any other information
5 deemed necessary to describe adequately the school district's
6 needs.

7 (2) Any architect, engineer, or consultant retained by the school
8 district to assist in the development of the job order contract
9 documents shall not be eligible to participate in the preparation
10 of a bid with any job order contractor.

11 (b) Based on the documents prepared under subdivision (a),
12 the school district shall prepare a request for bid that invites
13 prequalified job order contractors to submit competitive sealed
14 bids in the manner prescribed by the school district.

15 (1) (A) The prequalified job order contractors, as determined
16 by the school district, shall bid one or more adjustment factors to
17 the unit prices listed in the catalog of construction tasks based on
18 the job order contract technical specifications. Awards shall be
19 made to the prequalified bidder that the school district determines
20 to be the most qualified based upon preestablished criteria made
21 by the school district. The prequalified bidder must be in
22 compliance with the school district's project labor agreement.

23 (B) Compliance shall constitute no more than three major
24 violations on any school district projects within the last three years.
25 If a contractor has more than three violations within a three-year
26 period of time, the school district shall seek administrative review
27 of the violations. Violations will include, but are not limited to,
28 the following:

29 (i) Failure to register core workers with the appropriate building
30 trade union.

31 (ii) Failure to assign apprentices in accordance with Section
32 1777.5 of the Labor Code.

33 (iii) Failure to comply with subdivision (c) of Section 20919.25.

34 (iv) Incorrect assignment of work in accordance with the school
35 district's project labor agreement.

36 (2) The school district may award multiple job order contracts.
37 Each job order contract shall be awarded to the most qualified
38 prequalified bidder described in paragraph (1).

39 (3) The request for bids may encourage the participation of
40 local construction firms and the use of local subcontractors.

1 (c) (1) *The school district shall establish a procedure to*
2 *prequalify job order contractors using a standard questionnaire*
3 *that includes, at a minimum, the issues covered by the standardized*
4 *questionnaire and model guidelines for rating bidders developed*
5 *by the Department of Industrial Relations pursuant to subdivision*
6 *(a) of Section 20101. This questionnaire shall require information*
7 *including, but not limited to, all of the following:*

8 (A) *If the job order contractor is a partnership, limited*
9 *partnership, or other association, a listing of all of the partners*
10 *or association members known at the time of bid submission who*
11 *will participate in the job order contract.*

12 (B) *Evidence that the members of the job order contractor have*
13 *the capacity to complete projects of similar size, scope, or*
14 *complexity, and that proposed key personnel have sufficient*
15 *experience and training to competently manage the construction*
16 *of the project, as well as a financial statement that assures the*
17 *school district that the job order contractor has the capacity to*
18 *complete the project.*

19 (C) *The licenses, registration, and credentials required to*
20 *perform construction, including, but not limited to, information*
21 *on the revocation or suspension of any license, credential, or*
22 *registration.*

23 (D) *Evidence that establishes that the job order contractor has*
24 *the capacity to obtain all required payment and performance*
25 *bonding and liability insurance.*

26 (E) *Information concerning workers' compensation experience*
27 *history, worker safety programs, and apprenticeship programs.*

28 (i) *An acceptable safety record as determined by the school*
29 *district. In its determination, the school district shall consider, but*
30 *is not required to find, a contractor's safety record as acceptable*
31 *if its experience modification rate for the most recent three-year*
32 *period is an average of 1.00 or less, and its average total*
33 *recordable injury/illness rate and average lost work rate for the*
34 *most recent three-year period do not exceed the applicable*
35 *statistical standards for its business category or if the contractor*
36 *is a party to an alternative dispute resolution system as provided*
37 *for in Section 3201.5 of the Labor Code.*

38 (ii) *Skilled labor force availability as determined by the*
39 *existence of an agreement with a registered apprenticeship*
40 *program, approved by the California Apprenticeship Council, that*

1 *has graduated apprentices in each of the preceding five years.*
2 *This graduation training for any craft that was first deemed by the*
3 *Department of Labor and the Department of Industrial Relations*
4 *to be an apprenticeable craft within the five years prior to the*
5 *effective date of this article.*

6 *(F) A full disclosure regarding all of the following that are*
7 *applicable:*

8 *(i) Any serious or willful violation of Part 1 (commencing with*
9 *Section 6300) of Division 5 of the Labor Code or the federal*
10 *Occupational Safety and Health Act of 1970 (Public Law 91-596),*
11 *settled against any member of the job order contractor.*

12 *(ii) Any debarment, disqualification, or removal from a federal,*
13 *state, or local government public works project.*

14 *(iii) Any instance where the job order contractor, or its owners,*
15 *officers, or managing employees submitted a bid on a public works*
16 *project and were found to be nonresponsive, or were found by an*
17 *awarding body not to be a responsible bidder.*

18 *(iv) Any instance where the job order contractor, or its owners,*
19 *officers, or managing employees defaulted on a construction*
20 *contract.*

21 *(v) Any violations of the Contractors' State License Law*
22 *(Chapter 9 (commencing with Section 7000) of Division 3 of the*
23 *Business and Professions Code), excluding alleged violations of*
24 *federal or state law regarding the payment of wages, benefits,*
25 *apprenticeship requirements, or personal income tax withholding,*
26 *or of Federal Insurance Contribution Act (FICA) withholding*
27 *requirements settled against any member of the job order*
28 *contractor.*

29 *(vi) Any bankruptcy or receivership of any member of the job*
30 *order contractor, including, but not limited to, information*
31 *concerning any work completed by a surety.*

32 *(vii) Any settled adverse claims, disputes, or lawsuits between*
33 *the owner of a public works project and any member of the job*
34 *order contractor during the five years preceding submission of a*
35 *bid under this article, in which the claim, settlement, or judgment*
36 *exceeds fifty thousand dollars (\$50,000). Information shall also*
37 *be provided concerning any work completed by a surety during*
38 *this period.*

39 *(G) In the case of a partnership or any association that is not*
40 *a legal entity, a copy of the agreement creating the partnership or*

1 association and specifying that all partners or association members
2 agree to be fully liable for the performance under the job order
3 contract.

4 (2) The information required under this subdivision shall be
5 verified under oath by the entity and its members in the manner
6 in which civil pleadings in civil actions are verified. Information
7 that is not a public record under the California Public Records
8 Act (Chapter 3.5 (commencing with Section 6250) of Division 7
9 of Title 1 of the Government Code) shall not be open to public
10 inspection.

11 20919.25. (a) The maximum total dollar amount that may be
12 awarded under a single job order contract shall not exceed five
13 million dollars (\$5,000,000) in the first term of the job order
14 contract and, if extended or renewed, ten million dollars
15 (\$10,000,000) over the maximum two terms of the job order
16 contract adjusted annually to reflect the percentage change in the
17 California Consumer Price Index.

18 (b) Job order contracts may be executed for an initial contract
19 term of no more than 12 months, with the option of extending or
20 renewing the job order contract for two 12-month periods. The
21 term of the job order contract shall be for the contract term or
22 whenever the maximum value of the contract is achieved, whichever
23 is less. All extensions or renewals shall be priced as provided in
24 the request for bids. The extension or renewal shall be mutually
25 agreed to by the school district and the job order contractor.

26 (c) The school district may issue job orders to the job order
27 contractor that has been awarded the job order contract. The job
28 order issued to the job order contractor shall not commence for
29 seven days from the time the job order was issued and the job
30 order contractor shall provide a minimum of seven days notice
31 for the addition of any subcontractor or substitution of any
32 subcontractor as described in subdivision (e) of Section 20919.26.
33 The job order shall be based on a project scope of work prepared
34 by the school district as well as a proposal from the job order
35 contractor who is awarded the job order contract. No single job
36 order may exceed one million dollars (\$1,000,000).

37 (d) It is unlawful to split or separate into smaller job orders
38 any project for the purpose of evading the cost limitation provisions
39 of this chapter.

1 (e) All work performed under the job order contract shall be
2 covered by a project stabilization agreement.

3 (f) Any change or alteration to a job order shall be in
4 compliance with Section 20118.4.

5 20919.26. (a) All work bid under the job order shall comply
6 with Chapter 4 (commencing with Section 4100) of Part 1 and is
7 subject to all of the penalties and provisions set forth in that
8 chapter.

9 (b) For purposes of this article, if the primary job order
10 contractor chooses to use subcontractors, the primary job order
11 contractor is required to verify that the subcontractors possess
12 the appropriate licenses and credentials required to perform
13 construction.

14 (c) Notwithstanding subdivision (a), the primary job order
15 contractor may use subcontractors that are not listed at the time
16 the job order is issued if the work to be performed under that job
17 order is less than ten thousand dollars (\$10,000).

18 (d) If the primary job order contractor chooses to use a
19 subcontractor that is not listed at the time of bid to perform work
20 on a job order, both of the following apply:

21 (1) The primary job order contractor shall provide public notice
22 of the availability of work to be subcontracted by trade. The public
23 notice shall include the scope of work; the project location; the
24 name, address, and the telephone number of the primary job order
25 contractor; and the closing date, time, and location for sealed bids
26 to be submitted.

27 (2) The primary job order contractor shall take sealed bids from
28 the subcontractors solicited for the proposal. These bids shall be
29 publicly opened at a prescribed time and place by the primary job
30 order contractor. After the bids are opened, the job order
31 contractor shall notify the school district which subcontractor was
32 selected.

33 (3) The notification shall include every subcontractor for all
34 tiers and must establish the authorized subcontractor list for the
35 job order. Work shall not commence prior to seven days notice of
36 the established subcontractor list and the subsequent addition of
37 any subcontractor to the job order.

38 (4) The notification shall identify the scope of the work to be
39 performed by each subcontractor to the job order, broken down

1 by craft. If a subcontractor performs multiple crafts, the job order
2 contractor shall identify the work of each craft to be performed.

3 (e) If the primary job order contractor chooses to make a
4 substitution to the subcontractor list, the primary job order
5 contractor shall provide a minimum of seven days' notice to the
6 school district along with justification as to the need for the
7 substitution. The school district may request a hearing to evaluate
8 the substitution request, which shall be in accordance with Chapter
9 4 (commencing with Section 4100) of Part 1.

10 (f) If the school district determines that there has been a
11 violation of Chapter 4 (commencing with Section 4100) of Part 1,
12 including bid shopping by the primary job order contractor, the
13 school district may terminate the job order or the contractor may
14 lose authorization to proceed with awarded work subject to the
15 school district's administrative due process review, if such review
16 is established pursuant to the school district's project labor
17 agreement. If the school district determines that a job order
18 contractor has violated any provision set forth in Chapter 4
19 (commencing with Section 4100) of Part 1, the school district may
20 declare the contractor ineligible for future job orders and may
21 result in a loss of prequalification status for a period of time to be
22 determined by the school district.

23 20919.27. (a) A job order contract shall set forth in the general
24 conditions of the job order contract the party or parties responsible
25 for seeing that the provisions of Article 2 (commencing with Section
26 1770) of Chapter 1 of Part 7 of Division 2 of the Labor Code are
27 complied with.

28 (b) For purposes of job order contracting, prevailing wages
29 when required to be paid shall apply to all work ordered under
30 the job order contract regardless of thresholds set forth in Section
31 1771.5 of the Labor Code.

32 (c) The job order contractor shall pay the prevailing wage in
33 effect at the time the job order is issued by the school district and
34 all increases as published by the Department of Industrial
35 Relations for the term of the job order contract, including all
36 overtime, holiday, and shift provisions published by the Department
37 of Industrial Relations.

38 (d) The school district shall designate one individual within its
39 labor compliance office to act as a monitor to inspect job sites for

1 *labor compliance violations at the request of the designated labor*
2 *representative in its project labor agreement.*

3 *20919.28. A willful violation of Section 20919.26 occurs when*
4 *the job order contractor or subcontractor knew or reasonably*
5 *should have known of his or her obligations under the public works*
6 *law and deliberately fails or refuses to comply with its provisions.*
7 *The school district using job order contracting shall publish and*
8 *distribute to the Labor Commissioner a list of all job order*
9 *contractors or subcontractors who violate this provision and the*
10 *school district shall not award a job order contract or any future*
11 *job orders under an existing job order contract to any contractor*
12 *or subcontractor who violates this provision during the effective*
13 *period of debarment of the contractor or subcontractor.*

14 *20919.29. For purposes of employment of apprentices on job*
15 *order contracts, when the individual job order involves more than*
16 *thirty thousand dollars (\$30,000) or 20 working days, all general*
17 *contractors or subcontractors shall at all times be in compliance*
18 *with Section 1777.5 of the Labor Code and shall comply with the*
19 *following:*

20 *(a) Prior to commencing work on an individual job order, every*
21 *contractor shall submit job order award information to an*
22 *applicable apprenticeship program that can supply apprentices*
23 *to the site of the job order. The information submitted shall include*
24 *an estimate of the journeyman hours to be performed under the*
25 *contract, the number of apprenticeships proposed to be employed,*
26 *and the approximate dates the apprentices would be employed. A*
27 *copy of this information shall also be submitted to the awarding*
28 *agency if requested by the awarding agency.*

29 *(b) The ratio of work performed by apprentices to journeymen*
30 *employed in a particular craft or trade on the job order may be*
31 *no higher than the ratio stipulated in the apprenticeship standard*
32 *under which the apprenticeship program operates where the job*
33 *order contractor agrees to be bound by those standards but, except*
34 *as otherwise provided in Section 1777.5 of the Labor Code, in no*
35 *case shall the ratio be less than one hour of apprenticeship work*
36 *for every five hours of journeyman work.*

37 *(c) Every apprentice employed under the job order contract*
38 *shall be paid the prevailing rate of per diem wages for apprentices*
39 *in the trade to which he or she is registered and shall be employed*

1 *only at the work of the craft or trade to which he or she is*
2 *registered.*

3 *(d) Every apprentice employed under the job order contract*
4 *shall be hired from the local joint labor management*
5 *apprenticeship committee that has jurisdiction in the geographic*
6 *area of the project.*

7 *20919.30. A job order contractor or subcontractor that*
8 *knowingly violates the provisions involving employment of*
9 *apprentices shall forfeit as a civil penalty an amount not exceeding*
10 *one hundred dollars (\$100) for each full calendar day of*
11 *noncompliance. The amount of this penalty shall be based on*
12 *consideration of whether the violation was a good faith mistake*
13 *due to inadvertence. A contractor or subcontractor that knowingly*
14 *commits a second or subsequent violation of the provisions*
15 *involving employment of apprentices within a three-year period*
16 *where the noncompliance results in apprenticeship training not*
17 *being provided as required, shall forfeit as a civil penalty a sum*
18 *of not more than three hundred dollars (\$300) for each full*
19 *calendar day of noncompliance and shall not be awarded any*
20 *further job orders under the job order contract and shall be*
21 *precluded for a period of one year from bidding on any future job*
22 *order contracts.*

23 *20919.31. In order to prevent fraud, waste, and abuse, the*
24 *school district adopting job order contracting shall do all of the*
25 *following:*

26 *(a) Prepare for each individual job order developed under a*
27 *job order contract an independent school district estimate. The*
28 *estimate will be prepared prior to the receipt of the contractor's*
29 *offer to perform work and will be compared to the contractor's*
30 *proposed price to determine the reasonableness of that price before*
31 *issuance of any job order. The basis for any adjustments to the*
32 *school district estimate is to be documented. In the event that the*
33 *contractor's proposal for a given job order is found to be*
34 *unreasonable, not cost effective, or undesirable, the school district*
35 *is under no obligation to issue the job order to the job order*
36 *contractor, and may instead utilize any other available*
37 *procurement procedures.*

38 *(b) The school district shall not issue a job order until the job*
39 *order has been reviewed and approved by at least two levels of*
40 *management.*

1 (c) Once a job order has been issued, all documents pertaining
2 to preparation and approval of the job order, including the
3 independent school district estimate, shall be available for public
4 review.

5 20919.32. If the school district adopts the job order contracting
6 process, the school district shall submit to the Office of Public
7 School Construction in the Department of General Services, the
8 Senate Committee on Business, Professions and Economic
9 Development and Assembly Committee on Business, Professions
10 and Consumer Protection, the Senate and Assembly Committees
11 on Education, and the Joint Legislative Budget Committee before
12 December 31, 2019, a report containing a description of each job
13 order contract procured, and the work under each contract
14 completed on or before June 30, 2019. The report shall be prepared
15 by an independent third party and the school district shall pay for
16 the cost of the report. The report shall include, but not be limited
17 to, all of the following information:

18 (a) A listing of all projects completed under each job order
19 contract.

20 (b) The job order contractor that was awarded each contract.

21 (c) The estimated and actual project costs.

22 (d) The estimated procurement time savings.

23 (e) A description of any written protests concerning any aspect
24 of the solicitation, bid, proposal, or award of the job order
25 contract, including, but not limited to, the resolution of the protests.

26 (f) An assessment of the prequalification process and criteria.

27 (g) A description of the labor force compliance program
28 required under Section 20919.24, and an assessment of the impact
29 on a project where compliance with that program is required.

30 (h) Recommendations regarding the most appropriate uses for
31 the job order contract process.

32 20919.33. If, after 30 days from receipt of the invoice, a
33 contract has not been paid, the contractor shall contact the
34 designated school district employee to resolve payment. If the
35 contact with the school district's designee does not provide full
36 payment within three business days, the contractor may request a
37 special convening of the payment resolution committee.

38 (a) The payment resolution committee shall be composed of a
39 representative of the contractor, a representative from labor, a
40 representative designated by the director of facilities within the

1 school district, and a representative designated by the director of
2 facilities support services within the school district.

3 (b) After convening, the committee shall make its
4 recommendation of payment within three business days.

5 20919.34. It is the intent of the Legislature that a moratorium
6 be placed on the enactment of any additional legislation
7 authorizing school districts to use job order contracting until the
8 Legislature has received the reports required by Sections 20919.12
9 and 20919.32.

10 20919.35. This article shall remain in effect only until January
11 1, 2022, and as of that date is repealed, unless a later enacted
12 statute, that is enacted before January 1, 2022, deletes or extends
13 that date.

14 SEC. 2. No reimbursement is required by this act pursuant to
15 Section 6 of Article XIII B of the California Constitution because
16 the only costs that may be incurred by a local agency or school
17 district will be incurred because this act creates a new crime or
18 infraction, eliminates a crime or infraction, or changes the penalty
19 for a crime or infraction, within the meaning of Section 17556 of
20 the Government Code, or changes the definition of a crime within
21 the meaning of Section 6 of Article XIII B of the California
22 Constitution.

23 ~~SECTION 1. Section 65583 of the Government Code is~~
24 ~~amended to read:~~

25 ~~65583. The housing element shall consist of an identification~~
26 ~~and analysis of existing and projected housing needs and a~~
27 ~~statement of goals, policies, quantified objectives, financial~~
28 ~~resources, and scheduled programs for the preservation,~~
29 ~~improvement, and development of housing. The housing element~~
30 ~~shall identify adequate sites for housing, including rental housing,~~
31 ~~factory-built housing, mobilehomes, and emergency shelters, and~~
32 ~~shall make adequate provision for the existing and projected needs~~
33 ~~of all economic segments of the community. The element shall~~
34 ~~contain all of the following:~~

35 ~~(a) An assessment of housing needs and an inventory of~~
36 ~~resources and constraints relevant to the meeting of these needs.~~
37 ~~The assessment and inventory shall include all of the following:~~

38 ~~(1) An analysis of population and employment trends,~~
39 ~~documentation of projections, and a quantification of the locality's~~
40 ~~existing and projected housing needs for all income levels,~~

1 including extremely low income households, as defined in
2 subdivision (b) of Section 50105 and Section 50106 of the Health
3 and Safety Code. These existing and projected needs shall include
4 the locality's share of the regional housing need in accordance
5 with Section 65584. Local agencies shall calculate the subset of
6 very low income households allotted under Section 65584 that
7 qualify as extremely low income households. The local agency
8 may either use available census data to calculate the percentage
9 of very low income households that qualify as extremely low
10 income households or presume that 50 percent of the very low
11 income households qualify as extremely low income households.
12 The number of extremely low income households and very low
13 income households shall equal the jurisdiction's allocation of very
14 low income households pursuant to Section 65584.

15 (2) An analysis and documentation of household characteristics;
16 including level of payment compared to ability to pay, housing
17 characteristics, including overcrowding, and housing stock
18 condition.

19 (3) An inventory of land suitable for residential development,
20 including vacant sites and sites having potential for redevelopment,
21 and an analysis of the relationship of zoning and public facilities
22 and services to these sites.

23 (4) (A) The identification of a zone or zones where emergency
24 shelters are allowed as a permitted use without a conditional use
25 or other discretionary permit. The identified zone or zones shall
26 include sufficient capacity to accommodate the need for emergency
27 shelter identified in paragraph (7), except that each local
28 government shall identify a zone or zones that can accommodate
29 at least one year-round emergency shelter. If the local government
30 cannot identify a zone or zones with sufficient capacity, the local
31 government shall include a program to amend its zoning ordinance
32 to meet the requirements of this paragraph within one year of the
33 adoption of the housing element. The local government may
34 identify additional zones where emergency shelters are permitted
35 with a conditional use permit. The local government shall also
36 demonstrate that existing or proposed permit processing,
37 development, and management standards are objective and
38 encourage and facilitate the development of, or conversion to,
39 emergency shelters. Emergency shelters may only be subject to
40 those development and management standards that apply to

1 ~~residential or commercial development within the same zone,~~
2 ~~except that a local government may apply written, objective~~
3 ~~standards that include all of the following:~~

4 ~~(i) The maximum number of persons or beds permitted to be~~
5 ~~served nightly by the facility.~~

6 ~~(ii) Off-street parking based upon demonstrated need, provided~~
7 ~~that the standards do not require more parking for emergency~~
8 ~~shelters than for other residential or commercial uses within the~~
9 ~~same zone.~~

10 ~~(iii) The size and location of exterior and interior onsite waiting~~
11 ~~and client intake areas.~~

12 ~~(iv) The provision of onsite management.~~

13 ~~(v) The proximity to other emergency shelters, provided that~~
14 ~~emergency shelters are not required to be more than 300 feet apart.~~

15 ~~(vi) The length of stay.~~

16 ~~(vii) Lighting.~~

17 ~~(viii) Security during hours that the emergency shelter is in~~
18 ~~operation.~~

19 ~~(B) The permit processing, development, and management~~
20 ~~standards applied under this paragraph shall not be deemed to be~~
21 ~~discretionary acts within the meaning of the California~~
22 ~~Environmental Quality Act (Division 13 (commencing with Section~~
23 ~~21000) of the Public Resources Code).~~

24 ~~(C) A local government that can demonstrate, to the satisfaction~~
25 ~~of the department, the existence of one or more emergency shelters~~
26 ~~either within its jurisdiction or pursuant to a multijurisdictional~~
27 ~~agreement that can accommodate that jurisdiction's need for~~
28 ~~emergency shelter identified in paragraph (7) may comply with~~
29 ~~the zoning requirements of subparagraph (A) by identifying a zone~~
30 ~~or zones where new emergency shelters are allowed with a~~
31 ~~conditional use permit.~~

32 ~~(D) A local government with an existing ordinance that complies~~
33 ~~with this paragraph shall not be required to take additional action~~
34 ~~to identify zones for emergency shelters. The housing element~~
35 ~~must only describe how existing ordinances, policies, and standards~~
36 ~~are consistent with the requirements of this paragraph.~~

37 ~~(5) An analysis of potential and actual governmental constraints~~
38 ~~upon the maintenance, improvement, or development of housing~~
39 ~~for all income levels, including the types of housing identified in~~
40 ~~paragraph (1) of subdivision (c), and for persons with disabilities~~

1 as identified in the analysis pursuant to paragraph (7), including
2 land use controls, building codes and their enforcement, site
3 improvements, fees and other exactions required of developers,
4 and local processing and permit procedures. The analysis shall
5 also demonstrate local efforts to remove governmental constraints
6 that hinder the locality from meeting its share of the regional
7 housing need in accordance with Section 65584 and from meeting
8 the need for housing for persons with disabilities, supportive
9 housing, transitional housing, and emergency shelters identified
10 pursuant to paragraph (7). Transitional housing and supportive
11 housing shall be considered a residential use of property, and shall
12 be subject only to those restrictions that apply to other residential
13 dwellings of the same type in the same zone.

14 (6) ~~An analysis of potential and actual nongovernmental~~
15 ~~constraints upon the maintenance, improvement, or development~~
16 ~~of housing for all income levels, including the availability of~~
17 ~~financing, the price of land, and the cost of construction.~~

18 (7) ~~An analysis of any special housing needs, such as those of~~
19 ~~the elderly; persons with disabilities, including a developmental~~
20 ~~disability, as defined in Section 4512 of the Welfare and~~
21 ~~Institutions Code; large families; farmworkers; families with female~~
22 ~~heads of households; and families and persons in need of~~
23 ~~emergency shelter. The need for emergency shelter shall be~~
24 ~~assessed based on annual and seasonal need. The need for~~
25 ~~emergency shelter may be reduced by the number of supportive~~
26 ~~housing units that are identified in an adopted 10-year plan to end~~
27 ~~chronic homelessness and that are either vacant or for which~~
28 ~~funding has been identified to allow construction during the~~
29 ~~planning period.~~

30 (8) ~~An analysis of opportunities for energy conservation with~~
31 ~~respect to residential development. Cities and counties are~~
32 ~~encouraged to include weatherization and energy efficiency~~
33 ~~improvements as part of publicly subsidized housing rehabilitation~~
34 ~~projects. This may include energy efficiency measures that~~
35 ~~encompass the building envelope, its heating and cooling systems,~~
36 ~~and its electrical system.~~

37 (9) ~~An analysis of existing assisted housing developments that~~
38 ~~are eligible to change from low-income housing uses during the~~
39 ~~next 10 years due to termination of subsidy contracts, mortgage~~
40 ~~prepayment, or expiration of restrictions on use. "Assisted housing~~

1 developments,” for the purpose of this section, shall mean
2 multifamily rental housing that receives governmental assistance
3 under federal programs listed in subdivision (a) of Section
4 65863.10, state and local multifamily revenue bond programs,
5 local redevelopment programs, the federal Community
6 Development Block Grant Program, or local in-lieu fees. “Assisted
7 housing developments” shall also include multifamily rental units
8 that were developed pursuant to a local inclusionary housing
9 program or used to qualify for a density bonus pursuant to Section
10 65916.

11 (A) The analysis shall include a listing of each development by
12 project name and address, the type of governmental assistance
13 received, the earliest possible date of change from low-income
14 use, and the total number of elderly and nonelderly units that could
15 be lost from the locality’s low-income housing stock in each year
16 during the 10-year period. For purposes of state and federally
17 funded projects, the analysis required by this subparagraph need
18 only contain information available on a statewide basis.

19 (B) The analysis shall estimate the total cost of producing new
20 rental housing that is comparable in size and rent levels, to replace
21 the units that could change from low-income use, and an estimated
22 cost of preserving the assisted housing developments. This cost
23 analysis for replacement housing may be done aggregately for
24 each five-year period and does not have to contain a
25 project-by-project cost estimate.

26 (C) The analysis shall identify public and private nonprofit
27 corporations known to the local government which have legal and
28 managerial capacity to acquire and manage these housing
29 developments.

30 (D) The analysis shall identify and consider the use of all federal,
31 state, and local financing and subsidy programs which can be used
32 to preserve, for lower income households, the assisted housing
33 developments, identified in this paragraph, including, but not
34 limited to, federal Community Development Block Grant Program
35 funds, tax increment funds received by a redevelopment agency
36 of the community, and administrative fees received by a housing
37 authority operating within the community. In considering the use
38 of these financing and subsidy programs, the analysis shall identify
39 the amounts of funds under each available program which have

1 not been legally obligated for other purposes and which could be
2 available for use in preserving assisted housing developments.

3 (b) (1) A statement of the community's goals, quantified
4 objectives, and policies relative to the maintenance, preservation,
5 improvement, and development of housing.

6 (2) It is recognized that the total housing needs identified
7 pursuant to subdivision (a) may exceed available resources and
8 the community's ability to satisfy this need within the content of
9 the general plan requirements outlined in Article 5 (commencing
10 with Section 65300). Under these circumstances, the quantified
11 objectives need not be identical to the total housing needs. The
12 quantified objectives shall establish the maximum number of
13 housing units by income category, including extremely low income,
14 that can be constructed, rehabilitated, and conserved over a
15 five-year time period.

16 (c) A program which sets forth a schedule of actions during the
17 planning period, each with a timeline for implementation, which
18 may recognize that certain programs are ongoing, so that there
19 will be beneficial impacts of the programs within the planning
20 period, that the local government is undertaking or intends to
21 undertake to implement the policies and achieve the goals and
22 objectives of the housing element through the administration of
23 land use and development controls, the provision of regulatory
24 concessions and incentives, the utilization of appropriate federal
25 and state financing and subsidy programs when available, and the
26 utilization of moneys in a low- and moderate-income housing fund
27 of an agency if the locality has established a redevelopment project
28 area pursuant to the Community Redevelopment Law (Division
29 24 (commencing with Section 33000) of the Health and Safety
30 Code). In order to make adequate provision for the housing needs
31 of all economic segments of the community, the program shall do
32 all of the following:

33 (1) Identify actions that will be taken to make sites available
34 during the planning period with appropriate zoning and
35 development standards and with services and facilities to
36 accommodate that portion of the city's or county's share of the
37 regional housing need for each income level that could not be
38 accommodated on sites identified in the inventory completed
39 pursuant to paragraph (3) of subdivision (a) without rezoning, and
40 to comply with the requirements of Section 65584.09. Sites shall

1 be identified as needed to facilitate and encourage the development
2 of a variety of types of housing for all income levels, including
3 multifamily rental housing, factory-built housing, mobilehomes,
4 housing for agricultural employees, supportive housing,
5 single-room occupancy units, emergency shelters, and transitional
6 housing.

7 (A) Where the inventory of sites, pursuant to paragraph (3) of
8 subdivision (a), does not identify adequate sites to accommodate
9 the need for groups of all household income levels pursuant to
10 Section 65584, rezoning of those sites, including adoption of
11 minimum density and development standards, for jurisdictions
12 with an eight-year housing element planning period pursuant to
13 Section 65588, shall be completed no later than three years after
14 either the date the housing element is adopted pursuant to
15 subdivision (f) of Section 65585 or the date that is 90 days after
16 receipt of comments from the department pursuant to subdivision
17 (b) of Section 65585, whichever is earlier, unless the deadline is
18 extended pursuant to subdivision (f). Notwithstanding the
19 foregoing, for a local government that fails to adopt a housing
20 element within 120 days of the statutory deadline in Section 65588
21 for adoption of the housing element, rezoning of those sites,
22 including adoption of minimum density and development standards,
23 shall be completed no later than three years and 120 days from the
24 statutory deadline in Section 65588 for adoption of the housing
25 element.

26 (B) Where the inventory of sites, pursuant to paragraph (3) of
27 subdivision (a), does not identify adequate sites to accommodate
28 the need for groups of all household income levels pursuant to
29 Section 65584, the program shall identify sites that can be
30 developed for housing within the planning period pursuant to
31 subdivision (h) of Section 65583.2. The identification of sites shall
32 include all components specified in subdivision (b) of Section
33 65583.2.

34 (C) Where the inventory of sites pursuant to paragraph (3) of
35 subdivision (a) does not identify adequate sites to accommodate
36 the need for farmworker housing, the program shall provide for
37 sufficient sites to meet the need with zoning that permits
38 farmworker housing use by right, including density and
39 development standards that could accommodate and facilitate the

1 feasibility of the development of farmworker housing for low- and
2 very low income households.

3 (2) Assist in the development of adequate housing to meet the
4 needs of extremely low, very low, low-, and moderate-income
5 households.

6 (3) Address and, where appropriate and legally possible, remove
7 governmental constraints to the maintenance, improvement, and
8 development of housing, including housing for all income levels
9 and housing for persons with disabilities. The program shall remove
10 constraints to, and provide reasonable accommodations for housing
11 designed for, intended for occupancy by, or with supportive
12 services for, persons with disabilities.

13 (4) Conserve and improve the condition of the existing
14 affordable housing stock, which may include addressing ways to
15 mitigate the loss of dwelling units demolished by public or private
16 action.

17 (5) Promote housing opportunities for all persons regardless of
18 race, religion, sex, marital status, ancestry, national origin, color,
19 familial status, or disability.

20 (6) Preserve for lower income households the assisted housing
21 developments identified pursuant to paragraph (9) of subdivision
22 (a). The program for preservation of the assisted housing
23 developments shall utilize, to the extent necessary, all available
24 federal, state, and local financing and subsidy programs identified
25 in paragraph (9) of subdivision (a), except where a community has
26 other urgent needs for which alternative funding sources are not
27 available. The program may include strategies that involve local
28 regulation and technical assistance.

29 (7) Include an identification of the agencies and officials
30 responsible for the implementation of the various actions and the
31 means by which consistency will be achieved with other general
32 plan elements and community goals.

33 (8) Include a diligent effort by the local government to achieve
34 public participation of all economic segments of the community
35 in the development of the housing element, and the program shall
36 describe this effort.

37 (d) (1) A local government may satisfy all or part of its
38 requirement to identify a zone or zones suitable for the
39 development of emergency shelters pursuant to paragraph (4) of
40 subdivision (a) by adopting and implementing a multijurisdictional

1 agreement, with a maximum of two other adjacent communities;
2 that requires the participating jurisdictions to develop at least one
3 year-round emergency shelter within two years of the beginning
4 of the planning period.

5 (2) The agreement shall allocate a portion of the new shelter
6 capacity to each jurisdiction as credit towards its emergency shelter
7 need, and each jurisdiction shall describe how the capacity was
8 allocated as part of its housing element.

9 (3) Each member jurisdiction of a multijurisdictional agreement
10 shall describe in its housing element all of the following:

11 (A) How the joint facility will meet the jurisdiction's emergency
12 shelter need.

13 (B) The jurisdiction's contribution to the facility for both the
14 development and ongoing operation and management of the
15 facility.

16 (C) The amount and source of the funding that the jurisdiction
17 contributes to the facility.

18 (4) The aggregate capacity claimed by the participating
19 jurisdictions in their housing elements shall not exceed the actual
20 capacity of the shelter.

21 (e) Except as otherwise provided in this article, amendments to
22 this article that alter the required content of a housing element
23 shall apply to both of the following:

24 (1) A housing element or housing element amendment prepared
25 pursuant to subdivision (c) of Section 65588 or Section 65584.02,
26 when a city, county, or city and county submits a draft to the
27 department for review pursuant to Section 65585 more than 90
28 days after the effective date of the amendment to this section.

29 (2) Any housing element or housing element amendment
30 prepared pursuant to subdivision (c) of Section 65588 or Section
31 65584.02, when the city, county, or city and county fails to submit
32 the first draft to the department before the due date specified in
33 Section 65588 or 65584.02.

34 (f) The deadline for completing required rezoning pursuant to
35 subparagraph (A) of paragraph (1) of subdivision (c) shall be
36 extended by one year if the local government has completed the
37 rezoning at densities sufficient to accommodate at least 75 percent
38 of the units for low- and very low income households and if the
39 legislative body at the conclusion of a public hearing determines;

1 based upon substantial evidence, that any of the following
2 circumstances exist:

3 (1) The local government has been unable to complete the
4 rezoning due to the action or inaction beyond the control of the
5 local government of any other state, federal, or local agency.

6 (2) The local government is unable to complete the rezoning
7 because of infrastructure deficiencies due to fiscal or regulatory
8 constraints.

9 (3) The local government must undertake a major revision to
10 its general plan in order to accommodate the housing-related
11 policies of a sustainable communities strategy or an alternative
12 planning strategy adopted pursuant to Section 65080.

13 The resolution and the findings shall be transmitted to the
14 department together with a detailed budget and schedule for
15 preparation and adoption of the required rezonings, including plans
16 for citizen participation and expected interim action. The schedule
17 shall provide for adoption of the required rezoning within one year
18 of the adoption of the resolution.

19 (g) (1) If a local government fails to complete the rezoning by
20 the deadline provided in subparagraph (A) of paragraph (1) of
21 subdivision (c), as it may be extended pursuant to subdivision (f),
22 except as provided in paragraph (2), a local government may not
23 disapprove a housing development project, nor require a
24 conditional use permit, planned unit development permit, or other
25 locally imposed discretionary permit, or impose a condition that
26 would render the project infeasible, if the housing development
27 project (A) is proposed to be located on a site required to be
28 rezoned pursuant to the program action required by that
29 subparagraph and (B) complies with applicable, objective general
30 plan and zoning standards and criteria, including design review
31 standards, described in the program action required by that
32 subparagraph. A subdivision of sites shall be subject to the
33 Subdivision Map Act (Division 2 (commencing with Section
34 66410)). Design review shall not constitute a "project" for purposes
35 of Division 13 (commencing with Section 21000) of the Public
36 Resources Code.

37 (2) A local government may disapprove a housing development
38 described in paragraph (1) if it makes written findings supported
39 by substantial evidence on the record that both of the following
40 conditions exist:

1 ~~(A) The housing development project would have a specific,~~
2 ~~adverse impact upon the public health or safety unless the project~~
3 ~~is disapproved or approved upon the condition that the project be~~
4 ~~developed at a lower density. As used in this paragraph, a “specific,~~
5 ~~adverse impact” means a significant, quantifiable, direct, and~~
6 ~~unavoidable impact, based on objective, identified written public~~
7 ~~health or safety standards, policies, or conditions as they existed~~
8 ~~on the date the application was deemed complete.~~

9 ~~(B) There is no feasible method to satisfactorily mitigate or~~
10 ~~avoid the adverse impact identified pursuant to paragraph (1), other~~
11 ~~than the disapproval of the housing development project or the~~
12 ~~approval of the project upon the condition that it be developed at~~
13 ~~a lower density.~~

14 ~~(3) The applicant or any interested person may bring an action~~
15 ~~to enforce this subdivision. If a court finds that the local agency~~
16 ~~disapproved a project or conditioned its approval in violation of~~
17 ~~this subdivision, the court shall issue an order or judgment~~
18 ~~compelling compliance within 60 days. The court shall retain~~
19 ~~jurisdiction to ensure that its order or judgment is carried out. If~~
20 ~~the court determines that its order or judgment has not been carried~~
21 ~~out within 60 days, the court may issue further orders to ensure~~
22 ~~that the purposes and policies of this subdivision are fulfilled. In~~
23 ~~any such action, the city, county, or city and county shall bear the~~
24 ~~burden of proof.~~

25 ~~(4) For purposes of this subdivision, “housing development~~
26 ~~project” means a project to construct residential units for which~~
27 ~~the project developer provides sufficient legal commitments to the~~
28 ~~appropriate local agency to ensure the continued availability and~~
29 ~~use of at least 49 percent of the housing units for very low, low-,~~
30 ~~and moderate-income households with an affordable housing cost~~
31 ~~or affordable rent, as defined in Section 50052.5 or 50053 of the~~
32 ~~Health and Safety Code, respectively, for the period required by~~
33 ~~the applicable financing.~~

34 ~~(h) An action to enforce the program actions of the housing~~
35 ~~element shall be brought pursuant to Section 1085 of the Code of~~
36 ~~Civil Procedure.~~